

No.

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IN THE SUPREME COURT OF THE UNITED STATES

—o0o—

Linda Shao

Petitioner - Appellant,

vs.

Tsan-Kuen Wang,

Respondents - Appellees.

—o0o—

On Petition For A Writ Of Certiorari To the California Sixth District Court of Appeal regarding its Order of Dismissing Appeal on May 10, 2018 (an appeal from California Santa Clara County Court's Nov. 4, 2013's Child Custody Order after trial by Judge Patricia Lucas; based on California Supreme Court's Order of July 25, 2018 [H040395/S249444]; **related Petitions 11-11119, 14-7244, 17-613, 18-344**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The questions presented in this case are:

1. Does due process require reversal of the dismissal where the court fraudulently concealed dismissal and knowingly dismissed the appeal with false ground without a motion complying with Rule 8.57 on the day of known unavailability of the Petitioner?
2. Does due process require disqualification of the Court of Appeal where the Presiding Justice is the spouse of the judge who issued the parental deprivation orders that are at issue for this appeal and has proactively dismissed Petitioner's 4 appeals, directly or through the acting Presiding Justice that caused conflicts of interest with the Court of Appeal?
3. Does due process require disqualification of the trial court where the interested parties have extrajudicial relationship with the court and the court has refused to prepare records on appeal for 4 years?
4. Does due process require reversal of the decisions of the judge who failed to disclose conflicts of interest?

5. Does due process require reversal of the custody order of November 4, 2013 when there is no finding of any clear and convincing evidence that the mother is unfit to support parental deprivation of mother?
6. Does due process require reversal of the custody order of November 4, 2013 when it failed to consider the child's wishes to be with the mother?
7. Does due process require reversal of the Nov. 4, 2013's Order when it was based on illegal order of August 5, 2010 that was made without any notice, motion or hearing?
8. Does due process require reversal of the November 4, 2013's Order when the court refused to provide a statement of reasons as requested on whether the initial parental deprivation orders of August 4 and 5 violate Constitutional due process?
9. Does due process require reversal when the trial court severely obstructed justice to disallow records on appeal to be prepared for four years?
10. Does the courts' joint deterrence of records on appeal to be filed for four years constitute

violation Is Petitioner's fundamental right to appeal and access the court as a matter of law?

11. Should judges who are members of the American Inns of Court be required as a matter of due process to disclose their social relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?
12. Should judges disclose the conflicts of interest with the interested third parties including attorney-client relationship, social relationship, and the interested third parties being a Special Master of the Court?
13. Should the case be removed from Santa Clara County Court to a neutral forum?
14. Is California Family Code §3042 void for violating the equal protection clause in the First and Fourteenth Amendment in treating the children in parental deprivation situation differently from the children in the child dependency court where California Welfare and Institutions Code §317(e)(2) requires the minor's counsel to determine and represent the child's wishes for a child at age 4 or above, but California Family Code §3042 only honors the

- child's wishes for the children who are at least 14 years old?
15. Is Petitioner's due process right violated by the Court's generating false notices, altering dockets, blocking access to the case docket?
 16. Is Petitioner's due process right violated by the Presiding Judge's deterring the clerk's office to accept or docket filing of the papers submitted by Petitioner?
 17. Should the court immediately change child custody to protect the minor based on health insurance's psychological claims showing Respondent's voluntary psychological visits for very dangerous mental illness with repeated suicidal thoughts?
 18. Is Justice Grover's June 8, 2017's Order (App.169-72) void for creating false ground of April 12, 2016's Order vacating dismissal being to giving time for SHAO to fix the default which is beyond the scope of the motion that led to April 12, 2016's Order, in violation of California Government Code §6200 and California Penal Code §96.5, and for supporting the false docket entry of 2/27/2017 when no default notice was in existence as being docketed?

19. Does due process require screening of the mental health condition of the minor's counsel and require procedures to be set regarding replacement of the minor's counsel?

PARTIES TO THE PROCEEDING

Petitioner is Yi Tai Shao, aka Linda Shao ["Shao"], an attorney licensed to practice law in the State of California since 1996, who is the mother in this appeal. Respondent is Tsan-Kuen Wang, the father.

Interested third parties are McManis Faulkner, LLP., a law firm, and its partners: James McManis, Michael Reedy and Catherine Bechtel who stayed the civil trial that SHAO sued them with the case number of 112CV220571 (2011-1-cv-220571) pending dismissal of the child custody appeal (See App67-68). They are represented by Janet Everson Pearson, Bradley & Feeney; 88 Kearny Street, 10th Floor; San Francisco, CA 94108-5530.

TABLE OF CONTENTS

A. QUESTIONS PRESENTED i

B. PARTIES TO THE PROCEEDING vi

Petition for writ of certiorari 1

C. OPINION BELOW 3

D. JURISDICTION/request for recusal AGAINST
ALL JUSTICES EXCEPT JUSTICE
KAVANAUGH 7

E. STATUTES INVOLVED (App.1-13)..... 8

F. STATEMENT OF THE CASE 9

G. judicial noticeS taken by california courtS AND
PROCEDURAL FACTS 9

 A. California Sixth District’s malice in dismissing
 this appeal 9

 B. Other evidence 10

 C. Irregularities at California Sixth District in
 H040395 as of 6/12/2017 11

 a. First illegal dismissal of March 14, 2016 was
 caused by judicial conspiracies led by McManis
 Faulkner law firm..... 14

 b. The Sixth District’s Order of 4/12/2016 took
 judicial notice of the courts’ false notices, and

conspiracies in dismissing this appeal as being led by McManis Faulkner law firm.	19
c. Application for extension of time to file Petition for Writ of Certiorari to challenge the undecided issues in April 12, 2016’s Order was denied by Justice Kennedy without disclosing his conflicts of interest.....	20
d. Continuous attempts to dismiss this custody appeal 11.5 months later.	21
B.DISMISSAL by fraudulent order of 6/8/2017	26
1. Silent dismissal taking advantage of SHAO’s unavailability.....	27
2. COURT’S MALICE DISCOVERED ON July 17, 2018.....	30
3. Relationship of the two appeals	32
H. SUMMARY of the child custody appeal	33
REASONS FOR GRANTING CERTIORARI: Rule 10 (b) and (c)	39
A. WRIT should be issued as California Courts have refused to decide very important question of Substantive Due Process Rights of mother/daughter separation for eight (8) years but the order must be reversed as there was never any clear and convincing evidence that SHAO is unfit except that custody should be immediately switched as there is undisputed evidence that WANG has dangerous mental illness. ...	39

1. The custody orders are all void for lack of finding of existence of any clear and convincing evidence that SHAO is unfit. ..	40
2. Lucas’s Custody Orde also must be void as it is based on August 5, 2010’s Order when it was issued without a hearing in violation of due process.....	41
3. Child’s wishes should be protected as substantive due process rights; California Family Code §3042 should be declared to be void as it violated equal protection clause in disregarding child’s wishes between age 4 and 13 in parental deprivation situations.	42
4. There is no law to regulate the child attorney who acted in contrary to the child’s wishes	43
5. Child custody should have been immediately switched 4 years ago upon discovery of the dangerous mental condition of WANG, but for the conspiracies.	44
B. THE CONFLICTS OF INTERST HAVE BLOCKED SHAO’S ACCESS TO BOTH TRIAL AND APPELATE COURT AND RIGHT TO IMPARTIAL TRIBUNALS	46
1. Dismissal must be reversed.....	46
C. THE CONFLICTS OF INTEREST HAVE IMPAIRED PETITIONER’S substantive due process right to child custody and	

FUNDAMENTAL RIGHT TO ACCESS TO COURT, to appeal AND TO IMPARTIAL TRIBUNALS THAT REQUIRE CERTIORARI TO CHANGE COURTS .Error! Bookmark not defined.

D. CONCLUSION 51
E. VERIFICATION 51

TABLE OF AUTHORITIES

Cases

Adoption of Kelsey S., 1 Cal.4th 816 (1992)..... 41
Benson v. Lender (1925) 74 Cal.App.273 49
Brush v..... 49
Curle v. Superior Court (2001) 24 Cal.4th 1057 53
DeGeorge v. Superior Court (1974)40Cal.App.3d 305, 312..... 54
Doxsee Co. v. All Persons, etc. (1935) 3 Cal.2d 609. 49
Duchesne v. Sugarman, 566 F.2d 817 (2d Cir. 1977) 41
Locada v. Deeds (1991) 498 US 430, overruled on other grounds by Roe v. Flores-Ortega (2000) 528 US 470..... 48
Lovell v. Deyoe (1940) 16 Cal.2d 650. 49
Mardikian v. Commission on Judicial Performance (1985) 40 Cal.3d 473, 477 40

Marriage of Rosson (1986) 178 Cal.App.3d 1094
, 1103, disapproved on other grounds in
Marriage of Whealon (1997) 53 Cal.App.4th 132,
139, and overruled on other grounds in *Marriage
of Burgess* (1996) 13 C.4th 25, 39 44
McMahon v. Superior Court (1946) 29 Cal.2d 51548
Mock v. Mock (2004) 673 N.W.2d 635,
638.....46
Moore v. East Eleveland, 431 US 494, 499. 43
Robinson v. Robinson, 2017-Ohio-450 (Court of
Appeals of Ohio, Fourth Appellate District,
Meigs County, released on 1/31/2017)..... 50
People ex rel. Chitty v. Fitzgerald (1963) 40 Misc.
2d 966 46
People v. Gonzalez (1996) 12 Cal.4th 804. 40
Primus, 436 U.S. at 426 48
Santosky v. Kramer (1982) 455 US 745. 41
Shalant v. Girardi (2011) 51 Cal.4th 116. 13
Shalanti v. Girardi, *supra* 34
Volz v. Peterson, 667 N.W.2d 637 47
Winthrow v. Larkin, 421 U.S. 35, 95 S.Ct. 1456
(1975) 50, 53

Statutes

28 U.S.C. §2101(c)..... 8
28 USC §1257 8

Rules

Rule 10 (b) and (c).....	41
US Sup. Ct. Rule 13.1 and 13.3.....	9

TABLE OF APPENDIX—see the page after the
Petition

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ of Certiorari issue to review the California Sixth District Court of Appeal [“the Sixth District”]’s order of May 10, 2018 that dismissed Petitioner’s appeal, without notice, with malice, based on fraudulent notice to cover Santa Clara County Court [“the trial court”]’s refusing to prepare records on appeal for four years, without disclosing conflicts of interest where the Presiding Justice Mary J. Greenwood failed to disclose her husband is Judge Edward Davila with his order at issue for this appeal and has dismissed 4 appeals of SHAO since March 2018 immediately after she took the judicial seat at the Sixth District, continuing her husband’s conspiracy to accomplish permanent parental deprivation, in contrary to the child’s wishes, without a finding of existence of any clear or convincing evidence.

There is no more obstruction of justice than this case where, in both the trial and appellate levels, there have been intensive criminal conspiracy acts and massive irregularities of the courts (alteration of dockets, repeatedly generating false court notices in order to dismiss appeal, conceal docket by 8 months,

destroying case files, deterring filing of SHAO, misusing the void prefiling order made without notice by the court's attorney James McManis to block any motion to be filed by SHAO, blocking records on appeal for 4 years, forcing the court reporter to alter trial transcripts then disallowed filing after SHAO paid \$3,072), deprivation of child custody without an evidentiary hearing for 3 years, disposing trial exhibits before November 4, 2013's order was issued, the judges were manipulated by the interested third parties at the McManis Faulkner law firm but failed to disclose the conflicts of interest in the past 8 years, including violations of California Penal Code §§278.5, 6200, 96.5, California Government Code §§68151-53, and California Rules of Court Rule 8.54 and 8.57. The irregularities are highlighted below:

- (1) No justices ever disclosed their conflicts of interest.
- (2) No records on appeal prepared by the trial court (for already 4 years) and denied SHAO's motion to direct the trial court to prepare records.
- (3) Created repeated false notices of default against SHAO for lack of trial hearing transcripts when the courts blocked the court reporter from filing the trial transcripts.

- (4) concealing dismissal from knowledge of SHAO by willfully sending notices to an email that the Court was aware that SHAO could not have access to. (App.117),
- (6) Obstructing SHAO from filing Opening Brief for 4 years despite this is a parental deprivation appeal that should have been on fast track.
- (7) dismissal made without a motion as required by Rule 8.57, after conspiring dismissal of this appeal with many attempts.
- (8) ignoring clear and convincing evidence of WANG's dangerous mental illness and denied SHAO's motion for immediate relief after discovery of such dangerous mental condition 4 years after parental deprivation, when there is no clear and convincing evidence of SHAO's having been an unfit mother, but only clear and convincing evidence that SHAO is a fit mother. (E.g., App.236-41)

The issue of conflicts of interest had been brought to the attention of California courts and this Court many times, e.g., 17-82 (S239186), 17-613 (S242575). Related active Petition is 18-344.

OPINION BELOW

SHAO was not given a day at the court, as a result of the common scheme of a conspiracy (attested by Meera Fox, Esq. which had been taken judicial notice of by California Supreme Court twice in its decisions in S242475 and S249444) for permanent parental deprivation. This petition is a continuous “shenanigan” of Petition 17-613.(App.141,144,187)

On May 7, 2018, Acting Presiding Justice Adrianna Grover silently denied SHAO’s motion to reconsider her 6/8/2017’s Order and change place of appeal/trial that had been pending for 10 months, and willfully sent the Order to attorneylindashao@gmail.com that the court knew that SHAO could not have access to.

Three days later, on May 10, 2018, before SHAO was able to detect existence of the May 7’s order, when was also the first day of SHAO’s unavailability known to the Sixth District, Justice Grover promptly dismissed this appeal, without complying with Rule 8.57(App.4), and again sent the order to attorneylindashao@gmail.com.

Such malice to deceive SHAO in concealing dismissal by switching emails was uncovered and confirmed with the Deputy Clerk Beth Miller on July 19, 2018. (A.117) (Beth Miller sent a notice to SHAO’s correct email regarding the Sixth District’s acceptance of SHAO’s motion that suggested the court would decide the motion 15 days later pursuant to Rule 8.54, when in fact, 13

minutes prior, she sent to attorneylindashao@gmail.com the court's order denying the motion and setting due date to file Opening Brief as July 9 and hid posting the July 3's order on docket until dismissal, to deceive SHAO into waiting for the court's order without knowing the due date for opening brief that was secretly set until dismissal.

SHAO discovered dismissal of this appeal when she was overseas on May 22, 2018 and immediately filed a motion to set aside dismissal on May 23, 2018. Again, in violation of Rule 8.54, Justice Grover denied the motion on June 5, 2018, less than 15 days as required by Rule 8.54, and also sent the order to attorneylindashao@gmail.com.

SHAO sought timely review with California Supreme Court. Chief Justice Tani Cantil Sakayue denied review on 7/25/2018 but granted judicial notice, including the evidence of the Sixth District's malice and the irregularities discussed by Meera Fox's declaration.

Presiding Justice Mary J. Greenwood had abruptly dismissed 4 appeals of SHAO shortly after her appointment to the Sixth District, all with false grounds of dismissal. She was later discovered to be the Wife of Judge Edward Davila, when legality his order of August 2010 for parental deprivation of SHAO was at issue for this appeal.

Throughout the past 8 years, there was never any clear or convincing evidence that SHAO being unfit. The court did not set a review of this 8/4/2010's parental deprivation order surprisingly made on a Case Management Conference without an evidentiary hearing, nor notice, nor motion. Judge Davila had illegally reviewed the recommended order prior to the CMC, ordered to lock the minor for 3 hours in the court and transferred the minor to Respondent. Undisputed evidence of ex parte communications was discovered to prove judiciary corruption. (App.57-59,64)

This dismissal is entirely fraudulent both procedurally (lack of notice and Rule 8.57 motion) and substantively as the dismissal was based on Justice Conrad Rushing's distorted 3/28/2017's Order and Justice Grover's distorted 6/8/2017's Order where they willfully disregarded the trial court's blocking the records on appeal for years but requiring SHAO to get the reporters' signature on the optional certified copies of other non-trial hearing transcripts that were accepted by the trial court as certified copies in October 2014 and received by the Sixth District on 7/12/2015 from the trial court.

Justice Rushing tried to find fault on SHAO by picking on the optional transcripts' lacking the reporter's signatures (Note: SHAO has the option to waive these transcript under Rule 8.130(a)(4)) as the reporters considered these transcripts were having been certified in those years (from year 2005) and refused to sign other than original transcripts, to cover up the trial court's refusing to prepare the mandatory records on appeal for 4 years, despite the courts had accepted for filing of those transcripts in October 2014 and July 2015.

6/8/2017's Order further created the ground of Rushing's Order of 4/12/2016 granting SHAO's motion to vacate the first dismissal as being giving time for SHAO to fix the purported "default", which is beyond the scope of SHAO's motion, a false ground in violation of California Penal Code §96.5, and Government Code §6200, and is void.

The 6/8/2017's order further supported the false docket entry of 2/27/2017 stated in Rushing's 3/28/2017's Order, when the purported default notice was non-existence.

JURISDICTION

California Supreme Court's order was entered July 25, 2018. Petitioner invokes this Court's jurisdiction under 28 USC §1257 as the decisions of the California courts rejected Petitioner's claims under the First and Fourteenth Amendments to the Constitution of the United States. The Petition is timely under 28 U.S.C. §2101(c) and US Sup. Ct. Rule 13.1 and 13.3.

STATUTES INVOLVED (APP.1-13)

1. U.S. Constitution, First Amendment
2. U.S. Constitution, Fourteenth Amendment
3. 28 U.S.C.S. §455(b)
4. The Guide to Judiciary Policy prepared by the Judicial Conference of the United States
Judicial Conference of the United States,
Committee on Code of Conduct for United States Judges, Compendium of Selected Opinions §3.6-6[1] (Apr. 2013) (emphasis added)
5. F.R.C.P. Rule 60(b)
6. California Constitution, Article VI, §14
7. California Rules of Professional Conduct
Rule 5-300
8. California Rules of Court Rule 8.57

9. California Rules of Court Rule 8.54
10. California Rules of Court Rule 8.130
11. California Government Code §68150,
12. California Government Code §68151(a)(3),
13. California Government Code §68152(g)(16),
14. California Government Code §68153
15. California Government Code §6200 (willful
destroy, falsify and alter records)
16. California Penal Code §96.5
17. California Penal Code §182
18. California Penal Code §278.5
19. Guide to Judiciary Policy Vol.2 C: §620
20. California Family Code §3042
21. California Welfare and Institutions Code
§317(e)(2)

STATEMENT OF THE CASE

I. JUDICIAL NOTICES TAKEN BY CALIFORNIA COURTS AND PROCEDURAL FACTS

A. California Sixth District's malice in dismissing this appeal

In July 25, 2018's Order denying review, California Supreme Court took judicial notice of evidence of California Sixth District's "intent" of concealing its

orders from SHAO's knowledge that SHAO confirmed with Beth Miller on 7/19/2018 when the same scheme of fraud through switching emails was applied to both appeals of H040395 and H042531. See, section Opinion above. (A.117; Appendix Doc.#15).

B. Other evidence

In its 7/25/2018's Order, California Supreme Court also took judicial notice of the complaint of 1:18-cv-01233 pending at the USDC for D.C. (App.120;App.177-214, Doc.#16)and the evidence of

- (1) selected deposition transcripts of James McManis who admitted that he was Santa Clara County Court's attorney and that he provided free legal services to many judicial clients on July 20, 2015,
- (2) Declarations of Meera Fox (conspiracies and irregularities),
- (3) Declaration of Michael Bruzzone (cozy relationship and ex parte communications between McManis Faulkner law firm and the Sixth District),
- (4) Declaration of Mei-Ying Hu: The minor's complaints of Respondent's abuses and the harassment of the social worker Misook Oh,
- (5) Dr. Jeffrey Kline's declaration decoding Respondent's mental illness diagnoses shown in the

psychological insurance claims in the subpoenaed CIGNA production,
 (6) the irregularities and crimes committed by the Clerk's Office of this Court in Petition 17-613,
 (7) the same scheme of irregularities happened in the Ninth Circuit.(A.121-123)

C. Irregularities at California Sixth District in H040395 as of 6/12/2017

California Supreme Court, in its order of July 19, 2017 in S242475(Petition No.17-613), granted SHAO's motion for judicial notice (filed on 6/12/2017) which includes evidence of many irregularities in this appeal:

- (1) The trial court refused to prepare the records on appeal for this appeal for 4 years (well exceeds the 30 days' limit in Rule 8.130),
- (2) Illegal conspiracy dismissal of this appeal on March 14, 2016.
- (3) The docket entry of 2/27/2017 in this appeal was forged for stating a non-existent default notice
- (4) SHAO's access to the courts were blocked
- (5) ex-Presiding Justice Conrad Rushing illegally interfered the Clerk's office's normal function of filing by screening SHAO's filing and deterred the Clerk's Office to make

- docket entry until he approved SHAO's filing in this appeal proceeding after 2/27/2017,
- (6) This docket (H040395) was illegally altered many times, e.g., the entry of filing of Declaration of Meera Fox on 5/10/2017 was purged on 5/11/2017,
 - (7) Oral argument transcript of April 27, 2017 in H039823's appeal indicates bias and prejudice of the Sixth District
 - (8) Judge Patricia Lucas replied to SHAO's letter of March 6, 2017 about false default notice shown in 2/27/2017's docket entry in this appeal (H040395) and disappearance from the court's website of SHAO's family case (105FL126882/2005-1-FL-126882), with her letter dated March 8, 2017 where Lucas refused to take any corrective action and invited SHAO to file a complaint if not satisfied with her decision (App.236)
 - (9) Santa Clara County Court is a client of James McManis,
 - (10) James McManis has judicial clients in Santa Clara County Court, the Sixth District, California Supreme Court to whom he had provided free legal services in violation of Rule 5-300 of California Rules of Professional

Conduct, but is appearing as a defendant in the civil malpractice case of SHAO v. McManis Faulkner, LLP, et al., (112CV220571)

- (11) The family court willfully misused the vexatious litigant orders procured by James McManis to de-file SHAO's 4 motions, and stall SHAO from filing a motion in her family court case despite being advised of violation of *Shalant v. Girardi* (2011) 51 Cal.4th 116.
- (12) James McManis, Michael Reedy and their law firm, are interested third parties to this custody appeal (See also App.55),
- (13) Michael Reedy testified that William A. Ingram American Inn of Court has 100-110 members including 30 judges/justices and 60-70 attorneys; judges paid no fees and the judges who affected SHAO's family case have had long term close relationship with him through the Ingram Inn; and
- (14) The courts repeatedly created false notices of default for the sole purpose of dismissing this appeal.

a. **First illegal dismissal of March 14, 2016 was caused by judicial conspiracies led by McManis Faulkner law firm.**

In the declaration of Meera Fox that was taken judicial notice *twice* by California Supreme Court, Attorney Fox declared the public view that the interested third party, McManis Faulkner, LLP, defendant in Shao v. McManis et. al., 112CV220571 (2011:1-cv-220571), conspired with the courts to commit all the irregularities, including the notorious dismissal of this child custody appeal on March 14, 2016, which was based on a forged Default Notice issued by Santa Clara County Court on a Saturday March 12, 2016 (App.135). Ms. Fox recited the evidence in ¶¶17-21(App.134-36):

“17. Recently it also became very important to the firm of McManis Faulkner that Ms. Shao’s appeals be dismissed. Not coincidentally, since that became an express priority of the McManis firm, the deputy clerk in charge of records for the appellate division has illegally created several forged and baseless notices of noncompliance and has illegally altered the docket of Ms. Shao’s underlying cases many times. Such notices, when received at the appellate court have, within minutes of receipt, resulted in summary

dismissals of the appeals despite there being requirements that appeals cannot be dismissed without notice and a motion requesting dismissal. Some of these notices have to this date never been seen by anyone besides Justice Rushing and the deputy clerk of the lower court who keeps issuing them. They get noted in the dockets of the various cases and dismissals are issued by Justice Rushing, without the actual notice of non-compliance or dismissal ever being served on the appellant or filed in the case files at either court.

18. At the pretrial hearings in the malpractice case of Shao v. McManis, when Defendants presented their motions in limine, their defenses were all based upon lack of causation, citing collateral estoppel of Judge Lucas' 2013 order denying Ms. Shao custody. Over Ms. Shao's objection, Judge Woodhouse agreed to stay the case until the appeal of Lucas' order was dismissed or otherwise resolved, such that then collateral estoppel could be argued. He reasoned that the theory is inapplicable while the order is still on appeal. This would have left McManis Faulkner with no defense to the malpractice claim.

19. In support of their motion to stay pending the resolution of Ms. Shao's appeal, counsel for defendants mentioned on the record on 12/10/15 that it was likely the Shao appeal would be dismissed for failure of Ms. Shao to post the required fees for the court reporter. This seemed an odd thing to say at the time since the transcript had already been designated, paid for, and lodged with the appellate division of the Superior Court in October of 2014. (Despite a nine month delay by R. Delgado, deputy Clerk of the appellate division, in sending those transcripts to the court of appeal, the court of appeal shows them having been filed 10/3/14 and received by it on 7/21/15.) Nevertheless, counsel for defendant's prediction of why the appeal would get dismissed turned out to be the very wording by which the appeals were later dismissed.

THE COURT: Any suggestions as to how long the stay should be?

MS. EVERSON: My suggestion is that we put this on a 90- or 180-day case management conference so that we can check in with you and tell you the status. In reviewing the appellate court docket, it appeared

there was a problem with getting the transcript.

I thought that the appeal had been dismissed because Ms. Shao hadn't done her due diligence to get the transcript requested.

[December 10, 2015 transcript of Shao v. McManis Faulkner et al.]

20. The first Case Management Conference to review the status of the division appeal took place on Friday March 11, 2016.

21. Within 24 hours of that Conference, **on a Saturday**, March 12, 2016, Deputy clerk R. Delgado of the trial court's appellate division somehow gained entry to the otherwise closed courthouse and therein created two false notices of non-compliance in Ms. Shao's two appeals, entered them into the dockets for those two cases but did not file the actual documents in either file, did not notice any party of such "notices," and sent them somehow to Justice Rushing at the appellate court immediately, despite that court being closed on Saturdays and despite there being no mail delivery on Sunday."

In ¶31 of her declaration, Ms. Fox opined:

“Any reasonable attorney or member of the public who knew of the sequence of events described above that occurred from March 12, 2016 through March 14, 2016 would believe that there was a conspiracy to dismiss Ms. Shao’s appeals which involved at least Deputy Clerk of Court R. Delgado on behalf of Santa Clara County Superior Court, Justice Rushing of the California Sixth Appellate District Court of Appeal, and the firm of McManis Faulkner if not their attorneys. There is no other explanation for why R. Delgado would go in to work on a Saturday specifically for the sole purpose of creating false perjured documents to effect the specific relief required by McManis Faulkner to assert their collateral estoppel defense. There is no other explanation for why Justice Rushing would be expecting the falsified notices to arrive first thing that Monday morning and to explain how he had the appeals dismissed within 25 minutes of their receipt. There is no other explanation for why a presiding justice would

be willing to violate an appellant's due process rights by summarily dismissing her appeals without anyone filing a motion to dismiss and without providing her any notice, in direct violation of the rules of court." (App.140)

- b. **The Sixth District's Order of 4/12/2016 took judicial notice of the courts' false notices, and conspiracies in dismissing this appeal as being led by McManis Faulkner law firm.**

Contrary to Justice Grover's order of 6/8/2017, when the fraud of the first dismissal of this appeal by Justice Rushing's Order of 3/14/2016 was uncovered, on April 12, 2016, Justice Rushing granted SHAO's motion to vacated dismissal and motion for judicial notice (App.164), which included evidence and facts that:

- (a) The default notice of 3/12/2016 was fraudulently made on Saturday and was repeating prior false notices of 3/30/2015.
- (b) The default notice of 3/12/2016 was manipulated by James McManis, Michael Reedy and McManis Faulkner Law Firm as it was done within 24 hours of the hearing of 3/11/2016, which was predicted by Janet Everson on 12/10/2015.
- (c) James McManis, Michael Reedy and McManis Faulkner law firm are interested third parties to

this proceeding according to 3/11/2016's Order.
(App.67)

- (d) SHAO paid \$3072 to the Court Reporter in May 2014 for the hearing transcripts for the custody trial of July 2013, and the transcripts have been sitting in the reporter's home as the trial court's Appellate Unit disallowed her from filing with the Sixth District.
- (e) For the other non-custody hearing transcripts, the trial court received a certified copy of them in October 2014 which were transferred to the Sixth District on 7/21/2015.
- (f) Justice Rushing denied SHAO's motion to direct the trial court to prepare records on appeal on 12/18/2015.
- c. **Application for extension of time to file Petition for Writ of Certiorari to challenge the undecided issues in April 12, 2016's Order was denied by Justice Kennedy without disclosing his conflicts of interest.**

As in 4/12/2016's Order, Justice Rushing did not rule on SHAO's request for reversal of the child custody order of 11/4/2013 and to change venue, SHAO filed a motion to reconsider 4/12/2016's Order which was denied on 11/7/2016. SHAO timely filed a Petition for Review with California Supreme Court (16A863). On the due date of

filing Petition for Writ of Certiorari, SHAO discovered the denial and lack of a written order from California Supreme Court, and thus SHAO filed an Application with the proposed Petition for Writ of Certiorari. Associate Justice Anthony Kennedy promptly denied SHAO's application for extension of time to file the Petition for Writ of Certiorari, without disclosing his conflicts of interest. SHAO then discovered Justice Kennedy's connection with the William A. Ingram American Inn of Court where Michael Reedy has been an Officer, and she submitted a Rule 60 motion to vacate Justice Kennedy's denial of her application, which was returned by Jeff Atkins without filing.

d. Continuous attempts to dismiss this custody appeal 11.5 months later.

About 11.5 months later, the conspiracies to dismiss this appeal resumed. A silent docket entry indicating a default notice received by the Sixth District was entered on 2/27/2017. Then in checking on the purported default notice, SHAO discovered that her family case docket disappeared from the website of Santa Clara County Court.

In filing her Objection to such false notice on 3/6/2017, SHAO was informed by the trial court's clerk that there was no such default notice and the family case docket was inaccessible as it was

changed to be “confidential” case. On the same date SHAO dropped a letter to the trial court’s Presiding Judge along with a copy of the filed Objection.

(App.237) SHAO also went to the Sixth District asking to see the default notice but was informed by the clerk there that there was also no such notice received by the Sixth District. The Clerk’s Office refused to state who did the docketing but stated that the court always has the record on who made the docket entry. Such notice was never served, either.

During all time when the irregularities and false notices took place, Judge Lucas was serving as Assistant Chief Judge supervising the civil matter..

Regarding the 2/27/2017’s false docket entry, Ms. Fox stated in ¶33:

“On February 27, 2017 The docket of H040395 showed an entry of another Default Notice for failure to pay reporter’s transcript fees identical to the March 12, 2016 Notices of Non-compliance. ...[omitted].. the Notice shown on the docket of H040395 is a false entry, as no such notice was in either courts’ file. The entry into the docket of a notice that does not exist constitutes more felonious tampering with court records. These

shenanigans seem motivated to make Ms. Shao feel persecuted and harassed.”(App.140)

In response to SHAO’s motion to strike, Justice Rushing issued March 28, 2017’s Order which stated:

“Appellant’s motion filed March 7, 2017, is deemed a motion for relief from default and as such is granted. Appellant shall have 15 days from the date of this order to deposit with the clerk of the superior court either the necessary fees for transcribing the proceedings designated or certified transcripts of the proceeding designated (8.130(b), Cal.Rules of Court)”.(App.167)

Ms. Fox commented on this in ¶39 and ¶40 of her declaration:

On March 28, 2017, Presiding Justice Conrad Rushing issued an Order “granting” Ms. Shao’s first motion to strike. However, in order to minimize his having summarily dismissed her appeals based upon false defaults, Justice Rushing chose to reframe Ms. Shao’s motion to strike as a motion for leave to cure the default, and ordered Ms. Shao to cure the default. **In fact there was never any default to cure.** Ms. Shao had paid

the court reporter in 2014 and deposited the trial [sic: non-custody trial] transcripts with the court and designated the transcripts for appeal in October of 2014 [See Exhibits D&E]. In granting a motion for leave to cure a default that Ms. Shao had not pled nor made, **Justice Rushing compounded the fraud** involved in the fabricated default and faked notice of noncompliance. His order to Ms. Shao to cure the default when there was no such default only served to make it appear that she had in fact defaulted. But she never did.” (App.142; emphasis added)

Ms. Fox recited additional “shinanegans”:

35. On March 8, 2017, Presiding Judge Patricia Lucas of Santa Clara County Superior Court, the judge who issued the custody statement of decision and order that is the subject of appeal of H040395, sent a letter to Ms. Shao stating that the Court would not take any action on Ms. Shao’s letter of complaint (of alteration of court’s files in violation of California Government Code Sections 68150 and 68152). Judge Lucas invited Ms. Shao to

file a complaint about her with the Commission on Judicial Performance if she was dissatisfied. (App.238)

36. Five days after Presiding Judge Lucas's letter, on March 14, 2017, Santa Clara County Superior Court made another identical false Default Notice to the prior one, and filed it with California Sixth Appellate Court of Appeal.

37. On March 21, 2017, Ms. Shao filed with Santa Clara County Superior Court another "Objection to the 5th False Default Notice Dated March 14, 2017." (App.141-42)

Ms. Fox's declaration was signed on or about April 1, 2017 which did thus does not include the events after 4/1/2017.

On April 28, 2017, Justice Rushing issued an order stating:

"Appellant's motion to strike Santa Clara County's Superior Court's 5th false appellant's default notice of March 14, 2017, and renewed motion to change place of appeal/trial and remand is denied." (App.167)

Regarding this, SHAO appealed which is Petition No. 17-613. This significant issue of lack of impartial court was disregarded by this Court and shenanigans continued as this Court denied writ in 17-613 and disregarded SHAO's requests for recusal.

B.DISMISSAL by fraudulent order of 6/8/2017

The conspiracies moved on—a notice of non-compliance of April 25, 2017 was issued based on the 3/14/2017's default notice.

On 5/15/2017, SHAO filed the third motion to strike the 4/25/2017's false notice of non-compliance and renewed her motion to change courts.

On 6/8/2017, Justice Grover, as an Acting Presiding Justice, issued an order to support the "default" in Justice Rushing's Order of March 28, 2017, supported the non-existent default notice docketed on 2/27/2017. (App.169-171) She further forged new ground of Justice Rushing's order of March 14, 2016 vacating dismissal by alleging that "On April 12, 2016, we vacated that dismissal, giving appellant an opportunity to comply with the rules of court." This is outside the scope of SHAO's motion to vacate dismissal and inconsistent with California Supreme Court's order granting judicial notice.

On 6/13/2017, SHAO filed a motion to reconsider the 6/8/2017's Order and renewed her request to change

venue for appeal and trial, which was amended on 7/20/2017.

1. **Silent dismissal taking advantage of SHAO's unavailability.**

The Sixth District made a lengthy delay in adjudication on this motion. In the interim, SHAO had three Petitions filed with this Court, with case numbers of 17-82, 17-256, and 17-613.

SHAO made radio show and posted on Youtube in January and February of 2018.

SHAO filed three Requests for Recusal with this Court and there was irregularity of deterrence of filing of the Request as this Court did not allow posting of the Appendix which contains evidence supporting for the Requests for Recusal. Then some material evidence contained therein was purged. In late January 2018, American Inns of Court and McManis Faulkner law firm simultaneously purged A.12 and A.22 in the Appendix for the Requests for Recusal.

A.12 was the video about the function of the American Inns of Court which SHAO criticized as violating Rule 5-300 of California Rules of Professional Conduct. Attorney Emmanuel Sanchez stated in the Video of "American Inns of Court Members Services," which was posted on YouTube:

“This is the only organization that I know that the lawyers and judges belong to the trial bar have a chance to meet outside of the courtroom in a social setting and really able to establish the rapport.” (A.180-81)

A.22 was James McManis’s news release about his close relationship with Chief Justice John G. Roberts (App.225)

Then, without preceding notice, Google and YouTube suspended all gmail accounts of SHAO, Google further hacked into all IP addresses of all computers and laptops of SHAO. As a result of unable to access her attorneylindashao@gmail.com, SHAO tried to change her email contact on Truefiling.com but accidentally deleted the account. SHAO was informed that she was required to create a new account with the new email address of attorneyshao@aol.com. Truefiling.com stated that the deleted account with attorneylindashao@gmail.com cannot be retrieved. A new account using the aol.com email was then created on March 22, 2018. (App.107)

On March 27, 2018, Beth Miller at the Sixth District Court was informed of the new email for SHAO’s Truefiling account and sent an email to the new aol email. (App.109) The Sixth District

communicated thereafter with the aol email. E.g., App. 112.

On 3/18/2017, Justice Mary J. Greenwood who just transferred from Santa Clara County Court, promptly dismissed two appeals of H045501 and H045502 with identical ground of lack of civil case information sheet. SHAO Petition for Writ of Certiorari for H045502 with this Court (18-344) when evidence showed that the courts actually concealed the civil case information sheet and falsified lack of the civil case information sheet in order to dismiss appeal.

The Sixth District also was make known that SHAO would travel overseas and unavailable from May 10 when SHAO tried to get extension of her Opening Brief re H042531 (vexatious litigant orders appeal).

On May 22, 2018, in India, during her periodical check on the docket, SHAO discovered that this appeal was dismissed on May 10, and her motion to 6/8/2017's Order and Renewed Request to Change Courts was silently denied on May 7, after 10 months' pending. There was only 3 days' gap and the dismissal was made without a Rule 8.57's motion.

SHAO immediately filed a motion to vacate dismissal on May 23, 2018. Without waiting for 15 days as required by Rule 8.54 of California Rules of Court, Justice Grover denied the motion on June 5, 2018.

The Sixth District denied all motions filed by SHAO without need to get any written response from Sussman or Wang.

All Orders of May 7, May 10 and June 5 were not received by SHAO as the Sixth District sent notices to attorneylindashao@gmail.com. Yet, the Court contacted SHAO that the Court accepted for filing of the motion to vacate dismissal via the aol email on June 1 (App.119). SHAO checked with the Clerks' Office of the Sixth District and the response was that the court was unaware of changing email and sent all notices of Orders to the extinct gmail email.

**2. COURT'S MALICE DISCOVERED ON
July 17, 2018.**

Please see Opinion, *supra*, about discovery of the Sixth District's switching emails within 13 minutes.

On 7/2/2018, SHAO filed her Objection to false docket entry on June 15, 2018 as well as "MOTION FOR JUDICIAL NOTICE IN SUPPORT OF OPENING BRIEF AND "OBJECTION TO FALSE DOCKET ENTRY ON JUNE 15, 2018 and GROSSLY INSUFFICIENT RECORDS ON APPEAL AND REQUEST INVESTIGATION ON THE FRAUD AND TO STRIKE BOTH THE FALSE DOCKET ENTRY OF JUNE 15, 2018 AS WELL AS TO STRIKE THE FALSE CERTIFICATE OF COMPLETION; MOTION TO BE RELIEVED FROM DEFAULT; MOTION TO AUGMENT

RECORDS;MOTION TO STAY THIS APPELLATE PROCEEDING”. SHAO telephoned Beth Miller who informed SHAO to hold on filing Opening Brief to see if the Sixth District would direct the trial court to supplement the records on appeal.

On July 3, 2018, at 3:43 p.m., SHAO received an email at her aol.com stating that the Sixth District accepted for filing of SHAO’s objection and motion. On or about July 10, 2018, SHAO discovered that the docket of H040395 showed the vexatious litigant appeal was dismissed as the Court denied SHAO’s motion but granted Opening Brief to be filed by July 9, 2018 and dismissed the ensuing date for the reason that SHAO did not file the Opening Brief.

SHAO talked to Beth Miller as she never received any notice of the July 3’s Order and such docket entry was not shown until dismissal. Beth Miller then emailed to SHAO a proof of service of the July 3’s order that granted Opening Brief to be filed on July 9, 2018. (App.114-115)

Then, it was exposed that 13 minutes before Beth Miller sent out to SHAO via the aol email that is linked to the Truefiling, the court’s efilng system, Justice Elia had denied the motion and such email notice of order was sent to the gmail. .The court’s sending to SHAO the acceptance of motion email at 3:43 p.m. of July 3, 2018

defrauded SHAO into believing that the Court would hold at least until 15 days passed as required by Rule 8.54 to decide on SHAO's motion.

When being asked by SHAO what made Beth Miller to switch emails within 13 minutes, Beth Miller was unable to respond. SHAO sent an email to confirm that someone at the Sixth District coached Miller to do so such as to conceal the important notice of due date of Opening Brief away from SHAO. (App.117). Beth Miller was confirmed with this malice and did not deny.

3. Relationship of the two appeals

The vexatious litigant orders were issued in June 2015. One month later, with God's almighty power, James McManis admitted on July 20, 2015 that he represented the trial court and about 25 judges, clerks, court reporters, bailiffs and Clerk in the trial court, plus a Justice at the Sixth District and a Justice at California Supreme Court and all of the judicial individuals were provided with free legal services. Michael Reedy admitted on July 22, 2015 about the regular social relationship between him and about 30 judges/justices at Santa Clara County through the Honorable William A. Ingram American Inn of Court, and admitted to close regular social relationship with Judge Theodore Zayner, Judge Patricia Lucas, Judge Patricia

Bamattre-Manoukian for 10+ years with at least 14 meals a year.

The vexatious litigant orders that McManis obtained from his client trial court, were immediately misused by the family court to block SHAO from filing any motion in her case with knowledge that such blocking violates *Shalanti v. Girardi, supra*.

Thus, the silent dismissal in this appeal was also in the same scheme with same malice of the Sixth District to try all means to dismiss this custody appeal. These apparent court crimes to stall SHAO from access to the courts require certiorari.

II. SUMMARY OF THE CHILD CUSTODY APPEAL

Declaration of Meera Fox as shown in App.125 through 158 provides the best nutshell for this custody appeal. SHAO invites the Court to review the Declaration. (App.124-56)

On 8/4/2010 in illegal ex parte communications, a conspiracy was worked out to effect an illegal custody switch of SHAO's 5-year old daughter from SHAO to the child's father, Respondent Wang ["Wang"] who the child had consistently identified as abusive, who had a history of domestic violence against SHAO, and who was

suffering from undisclosed dangerous mental illness (App.8,178-180).

August 4, 2010 was a Case Management Conference when SHAO was surprised with the judicial abduction. A week prior, the minor reported brutal physical abuses by her father. Both minor's counsels opposed to this custody switch. BJ Fadem reported to the Court the child's wishes was to be with Mother and the minor complained abuses by Father, Step Mother and Step Brother.(App.65) Jill Sardeson induced SHAO to bring the minor to the court and locked her up for 3 hours and released at 5:40 p.m.(App.57) Before the 5-year-old was forcibly grabbed into her father's car, she exerted her utmost to shout "Father, You Liar!"

On the ensuing evening, the minor was discovered to have two large purple eye bags about 1 inch under each eye, spaced out, with two hands hidden in a coat but not in the sleeves. She trembled when her brother Louis hugged her saying Good-bye.

At the night of August 4, 2010, Sussman called in to Judge Davila who signed a supervised visitation order with a creation of "emotional abuse" as the ground for supervised visit. Davila signed another addendum of sibling separation order on August 5, 2010 without any notice nor hearing. The August 5, 2010's orders were never served.

SHAO arranged a family reunion in New York on August 5, 2010. Later discovery found that Wang specifically passed on his “bottom line instruction” through Misook Oh to Jill Sardeson (App.64,App.203) to deprive child custody before the New York vacation. This New York vacation was specifically mentioned in Item 7 of the August 4’s Order, which is very rare.(App.63)

On 8/20/2010, SHAO hired McManis Faulkner, LLP to attack as unconstitutional the 8/4/2010 and 8/5/2010 orders that had been issued in violation of her Constitutional rights to custody and to due process, but on his first day, her attorney succumbed to pressure from Judge Davila during an in chambers conference not to attack those pleadings. By following the court’s request rather than SHAO’s request, SHAO’s attorneys acted directly contrary to her interests and committed malpractice. This in chambers agreement between Attorney Michael Reedy, Judge Davila and David Sussman that Reedy not to attack the illegal orders was the second conspiracy. SHAO did not learn of it until long after it occurred.

On 7/22/2011, the trial court granted SHAO’s motion to set aside orders of 8/4/2010 and 8/5/2010 based on violation of due process, yet the written order

was delayed issued until passing the 90 days' statutory limit and again, was a result of ex parte communication with David Sussman where he avoided stating the ground of granting SHAO's motion to set aside. (App.55)

These irregular prolonged parental deprivation of SHAO after her motion to set aside was granted was later discovered to be conspiracies to protect James McManis and Michael Reedy from their professional malpractice. The judge who granted SHAO's motion to set aside irregularly ordered to maintain the invalidated orders of 8/4/2010 and 8/5/2010 to be continuously in force(App.55), while she intended to set an evidentiary hearing. Without disclosing his close relationship with McManis and Reedy, on 10/31/2011, Judge Theodore Zayner, cancelled the evidentiary hearing and deterred child custody return based on a conspired theory that a status quo for parental deprivation had been developed during the one year's delay that required another custody evaluation, even though there was a very positive psychological evaluation of SHAO that was released only in June of 2011. It was an attempt to make the temporary parental deprivation to be permanent and ordered to maintain the 8/4/2010 and 8/5/2010's orders. The delay was contributed to SHAO's

attorney's failure to take any action to retrieve her child custody.

In early 2012, SHAO filed Petition for writ of habeas corpus which was promptly denied by Justice Patricia Bamattre-Manoukian, a buddy to Reedy. It was appealed to this Court in Petition No.11-11119. SHAO's appeal was later illegally dismissed by Presiding Justice Conrad Rushing, Justice Eugene Premo, and Justice Franklin Elia on 5/22/2012. (Petition No. 14-7244)

They actually have had very cozy relationship with McManis Faulkner, LLP. (App.23, 235-236)

Judge Zayner eventually assigned for child custody trial to take place in front of Judge Patricia Lucas (present Presiding Judge of the trial court) in July 2013. Both of them were long term buddies to Reedy through the Ingram Inn.

Contrary to Judge Patricia Lucas's comments during trial on July 11, 2013 where she apologized to SHAO multiple times regarding the 3 years' parental deprivation (such comments were illegally erased in the transcript of July 11, 2013 and the court reporter refused to file the hearing transcripts with the excuse that the trial court did not allow her to file),

Judge Lucas ordered continued parental deprivation based on “extreme emotional abuse” which was unsupported by any evidence as there had been supervised visits and there were only positive reports testified by the professional supervisor during that three years after 8/4/2010’s parental deprivation.(App.239-241) Judge Lucas delayed beyond the statutory 90 days to issue an irregular child custody order of November 4, 2013 after July’s trial, that was not based upon any facts that had been covered during trial, but included facts that were custom designed to act as a defense to malpractice for Michael Reedy in his defense of SHAO’s malpractice action against him. SHAO did not know at that time the close relationship between Judge Lucas and Reedy, nor knowing that Reedy was interfering in her custody case from behind the scenes to ensure his defense of no causation to her malpractice case against him.

The minor has never been able to come home since, even though frequently stated her wishes to live with SHAO. (App.239-241)

None of the orders of August 4 and 5 of 2010 and Judge Lucas’s custody order mentioned any clear or convincing evidence that SHAO was unfit. The trial

court ignored the evidence of WANG's dangerous mental illness for already 4 years. Total parental deprivation has lasted 8+ years.

REASONS FOR GRANTING CERTIORARI: RULE 10 (B) AND (C):

- A. Certiorari is needed regarding very important Question of Substantive Due Process Rights on mother/daughter separation for eight (8) years where the parental order must be reversed for lack of any clear and convincing evidence that mother is unfit and important question of child safety that requires immediate child custody switch.**

Refusing to rule is a clear violation of judicial duty. *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, 477. The Court has a "duty to determine" if such order is void. People v. Gonzalez (1996) 12 Cal.4th 804.

Here, human rights have been oppressed by 8 years by void orders. Judge Lucas refused to decide Judge Davila's orders in violation of California Code of Civil Procedure §632 but further based her order on Judge Davila's 8/5/2010's order. The Sixth District rushed dismissal the appeal. The courts misused James McManis's void pre-filing vexatious litigant order to stall any motion filing at the family court by SHAO.

Significant civil rights of mother/child separation are severely prejudiced by void orders for 8 years already but was blocked to have any change, contrary to the public policy to modify custody anytime. This requires a writ of certiorari.

1. **All custody orders are void for lack of any clear and convincing evidence that SHAO is unfit.**

Parental rights are substantive due process rights. *Duchesne v. Sugarman*, 566 F.2d 817 (2d Cir. 1977); *Adoption of Kelsey S.*, 1 Cal.4th 816 (1992).

“Parents have a fundamental interest in the care, companionship, and custody of their children under the First, Ninth and Fourteenth Amendments.

Santosky v. Kramer (1982) 455 US 745. In *Santosky*, this Court held that due process requires a parental deprivation order *by at least clear and convincing evidence*.

Here, Judge Lucas’s 11/4/2013’s order was made based on lack of substantial change of circumstances from the “modified” order of August 5, 2010 (App.20), and refused to issue statement of decision on whether Judge Davila’s orders of August 4 and 5 of 2010 violated due process. Yet, none of these orders contains a finding that any clear and convincing evidence that SHAO is unfit. Instead, Judge Davila stated on the record of 8/4/2010’s CMC that he

believed SHAO is loving and caring for the minor.(transcript, 45:25-27) Therefore, pursuant to Santosky, all these custody orders should be reversed for being void in violation of due process for lack of clear and convincing evidence of SHAO's being unfit.

2. Lucas's Custody Order also must be void as it is based on August 5, 2010's Order which violated due process.

An order is void if it is based on a void order. See, e.g., People v. Gonzalez (1996) 12 Cal.4th 804, 817,

Evidentiary hearing is required before parental right is severed. E.g., Stanley v. Illinois(1972) 405 US 645.

Here, the basis of Lucas's order is August 5, 2010's order (App.20) but the 8/5/2010 orders were issued without notice nor hearing (App.57, 58) and thus is void for violation of due process. July 2013's custody trial in front of Judge Lucas was the only evidentiary hearing since 2010. Therefore, the 11/4/2013's Order is void.

3. Child's wishes should be protected as important substantive due process rights; California Family Code §3042 should be declared to be void as it violated equal protection clause ignoring child's wishes between age 4 and 13 in parental deprivation situations.

Freedom of personal choice in matters of family life is one of the liberties protected by the due process clause of the 14th Amendment. *Moore v. East Eleveland*, 431 US 494, 499.

USA designed the U.N. Convention on the Child's rights but refused to sign.

Here, the minor is extremely intelligent.

(App.243) She has suffered the abuses for 8 years bearing her father's dangerous mental illness. Shall her wishes be ignored by California Family Code §3042 until after age 14, but would have been honored if she were in juvenile dependency court as California Welfare and Institutions Code §317(e)(2) requires the minor's counsel to determine and represent the child's wishes for a child at age 4 or above. When both the family court and juvenile dependency court deal with the same issue of parental deprivation, the children between age 4 through 13 in the family courts are discriminated

against and their voices are ignored but not in the juvenile dependency court.

Child's wishes should be honored especially in modification of child custody situation as they have more informed basis regarding their preference. *Marriage of Rosson* (1986) 178 Cal.App.3d 1094, 1103, disapproved on other grounds in *Marriage of Whealon* (1997) 53 Cal.App.4th 132, 139, and overruled on other grounds in *Marriage of Burgess* (1996) 13 C.4th 25, 39.

Tens of thousands of children in the family courts have been discriminated against in the situation of parental deprivation.

4. There is no law to regulate the child attorney who acted in contrary to the child's wishes

When the children have their human rights, there is no law allowing them to change attorney if the child attorney betrayed them. There is also no law to require attorneys' mental examination. In this case, BJ Fadem changed sex from woman to man. Fadem hated all mothers and deprived numerous mothers' of child custody. Fadem apparently has some significant issue as she could represent the minor's wishes on August 4, 2010 (App.65) to oppose parental deprivation but also recommended parental deprivation in July 2011's motion to set aside orders of August 4 and 5 of 2010, and at the July 2013's trial (App.20).

Whenever the minor stated she wanted to be with Mother, Fadem just ignored her (App.243).

5. **Child custody should have been immediately switched based on the dangerous mental condition of WANG, but for the conspiracies.**

Wang voluntarily sought psychological help and was diagnosed with “Major Depressive Disorder, Recurrent, Moderate Severity” from July 30, 2010 for at least 4 years when CIGNA released the subpoenaed psychological claims records in Sep.2014.(App.179) This corroborates the minor’s complaint about WANG’s brutal abuses in the week prior to July 30, 2010.

Notably, the illness includes “recurrent thoughts of death...recurrent suicidal ideation...attempt or a specific plan for committing suicide.” (App.179)

The court should have ordered parental deprivation of Respondent without child visits until he was examined mentally that he could be safe to the minor. People ex rel. Chitty v. Fitzgerald (1963) 40 Misc. 2d 966 A showing of a parent being unfit or mental illness that may endanger a child’s welfare justifies change of custody, including important new facts unknown at the time of the initial custody decree. Mock v. Mock (2004) 673 N.W.2d 635, 638.

In Bender v. Bender (1959) 170 Cal.App.2d 325, California Court of Appeal held that parent's affidavits setting forth names and addresses of proposed witnesses with a statement of matters to which each witness would testify were held to be sufficient to constitute the "prima facie case" that is entitled to evidentiary hearing. Allegations of a parent showing potential endangerment to a child's physical or mental health constitute a "significant change of circumstances which will raise a prima facie case for a modification of custody and entitlement to an evidentiary hearing." Volz v. Peterson, 667 N.W.2d 637; Quarne, 1999 ND 188, ¶ 12, 601 N.W.2d 256) Mere allegation under oath suggesting a parent's mental illness is sufficient to show prima facie case for modification of child custody. Mock v. Mock (2004) 673 N.W.2d 635, 638,

Here, the court irregularly only took SHAO's mental examination and she was rated to be "efficient parent", yet the trial court had refused to order mental examination of WANG in the past 8 year, and further suppressed the CIGNA records for already 4 years. Wang did not refute his mental illness. There should have been immediate child custody change but for lack of impartial tribunal.

**B. THE CONFLICTS OF INTEREST HAVE
BLOCKED SHAO'S ACCESS TO BOTH TRIAL
AND APPELLATE COURT AND RIGHT TO
IMPARTIAL TRIBUNALS**

The United States Constitution protects an individual's right "to petition the government for a redress of grievances." U.S. CONST. Amend. I. The First Amendment right to petition includes the right to have access to the court. Primus, 436 U.S. at 426

Structural error includes deterrence of right to appeal. See, Locada v. Deeds (1991) 498 US 430, overruled on other grounds by Roe v. Flores-Ortega (2000) 528 US 470.

1. Dismissal must be reversed

In McMahon v. Superior Court (1946) 29 Cal.2d 515, this Court held that where corrections to clerk's and reporter's transcripts have been requested by either party, it is the duty of the trial judge to hear and determine the request and thereafter to certify the transcripts with such corrections as he may.

When delay in filing transcript was due to delay of officers of the lower court the motion to dismiss must be denied. E.g., Benson v. Lender (1925) 74 Cal.App.273; Lovell v. Deyoe (1940) 16 Cal.2d 650.

California Sixth District Court of Appeal has the power to correct Santa Clara County Court's failure to generate records on appeal. See, *Brush v. Pacific E, R. Co.* (1922) 58 Cal.App.501; *Doxsee Co. v. All Persons, etc.* (1935) 3 Cal.2d 609.

In addition, Rule 8.57 requires a motion before dismissal when records on appeal were still unavailable.

As the lack of records on appeal was due to the trial court's errors, there was no Rule 8.57 motion and the Sixth District denied SHAO's motion for records on 12/18/2015, the dismissal order of May 10, 2018 must be reversed.

2. Severe obstruction of justice and actual prejudices suffered by SHAO justify reversal of all orders and changing courts

In *Robinson v. Robinson*, 2017-Ohio-450 (Court of Appeals of Ohio, Fourth Appellate District, Meigs County, released on 1/31/2017), the court held that the right to access the court for divorce proceedings was a substantial right that the United States Constitution entitled a person to enforce or protect.

A biased decisionmaker is constitutionally unacceptable and "our system of law has always endeavored to prevent even the probability of unfairness." *Winthrow v. Larkin*, 421 U.S. 35, 47,

95 S.Ct. 1456, 1464 (1975) quoting from *In re Murchison, supra*, at 136. When a minor is deprived of significant contacts with her mother or physical custody of a minor was unlawfully withheld, the matter should be resolved as expeditious as possible. *Zenide v. Super.Ct.*, 22 Cal.App.4th 1287, 1293 (5th 1994); *Polin v Corsio*, 16 Cal.App.4th 1451, 1457 (3rd 1993).

Yet this appeal was purposely deterred for 4 years without even a page of records on appeal prepared and the court reporter was told not to file the July 2013's trial transcripts. SHAO was unable to proceed her Opening Brief and was further fraudulently dismissed the appeal. This constitute severe prejudice to SHAO's due process rights to access the courts. Her right to impartial tribunal was impaired throughout the past 8 years because of judiciary corruptions. The child still lives under the threat of imminent danger..

Judge Davila started the corruption. Judge Theodore Zaynor and Judge Lucas stalled child custody return because of their undisclosed close relationship with James McManis and Michael Reedy. James McManis is also an attorney for the trial court. The 3/14/2016 dismissal exposed the conspiracies and manipulation of James McManis over SHAO's family case, through their attorney client relationship,

regular social relationship through the American Inns of Court which provided gifts to the judges/justices in violation of Rule 5-300 of California Rules of Professional Conduct. James McManis further promoted Special Master and has been a quasi employee of at least the trial court. Now he is appearing as a defendant for legal malpractice case in front of his own client. He used his power to obtain illegally the prefiling vexatious litigant order without being supported with a statement of decision, and misused that to block SHAO's complete access to the trial court and now the appellate court.

Worse of all, Presiding Justice Mary J. Greenwood is the wife of Judge Edward Davila and certainly has an interest to suppress the judiciary corruption played by her husband.

The dismissal as having been presented in the statement of the case, shocks the conscience of a reasonable person with evidence of fraud and conspiracies in violation of California Penal Code §§96.5 (obstruction of justice), 182 (conspiracy) and California Government Code §6200 (forged court records).

All the orders made by the courts who failed to disclose the conflicts of interest should be void, including, but not limited to, Judge Davila (8/2010),

Judge Mary Ann Grilli (10/31/2011), Judge Theodore Zayner (all orders in 4 years from 2/2011 through 1/2015), by Judge Patricia Lucas (11/4/2013 and later orders to block filing), Santa Clara County Court orders from 2010 until present, California Sixth District Court's orders of dismissing appeals.

SHAO has repeatedly brought up the same issue of lack of impartial court to this Court, please refer to Petition 17-613, Pages 26-32.

SHAO respectfully request change of courts.

3. The State Courts Violated Due Process by Failure to maintain the intergrity of the court's records as required by Government Code §§68150-53 (App. 7-10) and further forged notices in violation of Government Code §6200(App.11).

Please see Petition 17-613, P. 32-34.

4. Change of courts

A biased decisionmaker is constitutionally unacceptable and "our system of law has always endeavored to prevent even the probability of unfairness." *Winthrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 1464 (1975) quoting from *In re Murchison, supra*, at 136.

The interests of justice require disqualification of a

judge in order to prevent the power to punish held by the judge from becoming an “instrument of oppression”. *DeGeorge v. Superior Court* (1974)40Cal.App.3d 305, 312.

This case presents a situation calling the impartiality of the judges in both trial and appellate courts into question. Significant human rights are waiting impartial court to protect. While there is an important policy to “ensure public confidence in the judiciary, *Curle v. Superior Court* (2001) 24 Cal.4th 1057, 1070, the public lost confidence on the judiciary for severe corruptions. (App.234-35)

C. CONCLUSION

For the foregoing reasons, Petitioners request that certiorari be issued on the 19 questions presented.

D. VERIFICATION

I swear under penalty of perjury under the law of the U.S. that the foregoing is true and accurate to the best of my knowledge and made in good faith.

Dated: October 23, 2018

Respectfully submitted,

/s/ Yi Tai Shao

Yi Tai Shao